

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JORGE MUSICO,)	
)	
Plaintiff,)	
)	
v.)	1:08CV00563
)	
VECOPLAN, LLC and VECOPLAN)	
HOLDING CORPORATION,)	
)	
Defendants.)	

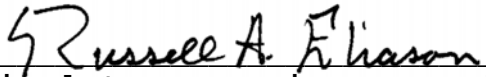
MEMORANDUM OPINION AND RECOMMENDATION OF MAGISTRATE JUDGE ELIASON

This matter comes before the Court on Defendants' motion to dismiss the complaint (docket no. 8) and on Plaintiff's motion to remand this case back to state court (docket no. 10). However, as will be seen, only the motion to remand needs to be addressed.

This is a product liability action filed in the state court in Guilford County, North Carolina. Defendants filed a notice of removal alleging this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. However, as it turns out, one or both of the Defendants have their principal place of business in North Carolina and, as a result, Plaintiff filed a motion to remand this case back to state court. After reviewing Plaintiff's motion and memorandum, counsel for Defendants consented to a remand of this case back to state court. (Docket No. 12.) Each party shall bear their own costs and, after this case has been remanded to state court, Plaintiff shall be given the time necessary to respond to Defendants' motion to dismiss. As a result, it shall be

recommended that this case be remanded back to state court based on the consent to remand (docket no. 12).

IT IS THEREFORE RECOMMENDED that, pursuant to Defendants' consent to remand (docket no. 12), Plaintiff's motion to remand (docket no. 10) be granted, and that this case be remanded back to the General Court of Justice, Superior Court Division, County of Guilford, North Carolina, Case No. 08CVS8380. Each side shall bear their own costs and, upon remand, Plaintiff shall be given an extension of time to respond to Defendants' motion to dismiss.


United States Magistrate Judge

September 3, 2008